

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of  
Phase II E911 Implementation Waivers  
Of Nextel Communications, Inc. and  
Hawaiian Wireless, Inc.

DA 00-2704  
CC Docket No. 94-102

To: The Commission

REPLY COMMENTS OF PACIFIC WIRELESS TECHNOLOGIES, INC.

Pacific Wireless Technologies, Inc. ("Pacific"), by its attorneys and pursuant to the invitation extended in the *Public Notice* released by the Federal Communications Commission ("FCC" or "Commission") on December 4, 2000,<sup>1</sup> hereby submits its Reply Comments responsive to the comments of other parties that responded to the Petition for Waiver of Hawaiian Wireless, Inc. ("HWI") and the Request for Waiver of Nextel Communications, Inc. and Nextel Partners, Inc. (collectively, "Nextel") (the "Requests"). As set forth more fully below, Pacific again urges the FCC to extend to Pacific whatever relief it affords to Nextel in this proceeding.

*Discussion.*

The record in this proceeding strongly supports the issuance of a waiver to Nextel and other carriers employing Motorola's iDEN technology. For example, Motorola states that its preferred Automatic Location Information ("ALI") solution, assisted Global Positioning System ("AGPS") technology, will not be available before October 1, 2002. Motorola Comments at 3. Motorola similarly states that interim, network-based, ALI solutions will not meet the FCC's mandated ALI standard, and that those interim solutions would actually delay introduction of AGPS. *Id.* at 8. As noted in Pacific's comments, Motorola is the equipment manufacturer that is responsible for the technical development of Pacific's iDEN system; Pacific has no ability to advance the state-of-the-

<sup>1</sup> *Public Notice* No. DA 00-2704, rel. December 4, 2000.

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art, or otherwise alter Motorola's implementation schedule. Pacific Comments at 2-3. Thus, Pacific, through not fault of its own, cannot comply with the FCC's established implementation deadlines. The FCC's E911 ALI policies were intended to accommodate, not necessarily drive, presumed advances in technology. If technology has not yet advanced to the point where ALI cannot be accommodated in connection with iDEN systems, the Commission should delay, to the point predicted by the technology developer, the deadline when that technology can be accommodated.

AT&T Wireless Services, Inc. ("AT&T") also supports grant of Nextel's Request, noting that Nextel has demonstrated sufficient cause for the issuance of a waiver. AT&T Comments at 4. Even two public safety advocates support the issuance of a waiver. Both the National Emergency Number Association ("NENA") and the Association of Public Safety Communications Officials International, Inc. ("APCO") appear to support the Nextel Request, albeit with conditions imposed by the agency.<sup>2</sup>

Only one entity, Grayson Wireless Division of Allen Telecom, Inc. ("Grayson") opposes Nextel's Request. Grayson, a competitor to Motorola, appears to have opposed Nextel's Request for competitive reasons, rather than public interest reasons. Grayson appears disappointed that Nextel did not select Grayson's technology.<sup>3</sup> The Commission should not second-guess Nextel's apparent rejection of Grayson's ALI-solution, which should be presumed rational, and in the best

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<sup>2</sup> The Commission should not impose conditions on Nextel that are not already contained in Nextel's Request. New conditions would only invite further petitions and requests for clarification. Pacific is devoting all of its existing resources to its newly-operational iDEN system, which includes a host of FCC regulatory mandates such as CALEA, etc. Further FCC mandates related to the issuance of an E911 ALI waiver will harm Pacific's ability to compete, which will ultimately disserve the public interest.

<sup>3</sup> Grayson also opposed the HWI Request. It appears that Grayson will simply oppose any wireless carrier that seeks a waiver of the FCC's ALI requirements, unless that carrier endorses Grayson's technology. This approach will certainly not cause iDEN carriers to change their otherwise rational choices to select Motorola's AGPS technology.

interests of Nextel's current and future customers.<sup>4</sup> The FCC long-ago decided not to regulate technology choices in the wireless industry - that decision has spawned a competitive CMRS industry that offers feature-rich services on a variety of technology platforms. The FCC should not retreat from that path, solely for a short-term gain in ALI compliance - a gain that may also come with countervailing costs.<sup>5</sup> For the foregoing reasons, the FCC should reject Grayson's Opposition.

As stated above, Pacific urged that the Commission extend whatever waiver relief it offers to Nextel to Pacific as well. Pacific Comments at 2. Pacific has tentatively selected Motorola's AGPS technology, and faces precisely the same implementation issues as does Nextel. Thus, issuance of a blanket waiver to those iDEN carriers that select AGPS technology is appropriate. The Commission has previously issued similar blanket waivers when it is clear that an industry segment is equally affected by a regulatory deadline or requirement. *Requests by Interactive Video and Data Service Auction Winners to Waive the January 18, 1998, and February 28, 1998, Construction Deadlines*, 13 FCC Rcd 756 (1998) (extending waiver to all IVDS licensees).

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<sup>4</sup> Safety features are certainly an important consideration in a consumer's choice of wireless services. Thus, iDEN carriers, like any other for-profit provider of wireless services, have every incentive to implement ALI solutions as expeditiously as possible.

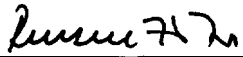
<sup>5</sup> It should be noted that the FCC's regulations provide that a rule waiver proponent must demonstrate that there is no "reasonable" alternative. 47 C.F.R. § 1.925(b)(3)(i) (2000). Thus, the Commission may not deny Nextel's Request simply because there exists an alternative ALI solution, if that alternative solution is not reasonable. Grayson has not demonstrated that Nextel's selection of the AGPS technology offered by Motorola is unreasonable.

***Conclusion.***

Based on the foregoing, Pacific again urges the Commission to grant the Nextel Request and provide similar relief to those iDEN carriers that select AGPS technology for their ALI solution.

Respectfully submitted,

**Pacific Wireless Technologies, Inc.**

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January 22, 2001

## CERTIFICATE OF SERVICE

I, Angela Collins, of Mintz, Levin, Ferris, Glovsky and Popeo, P.C., certify that I have, this 22nd day of January, 2001, caused a copy of the foregoing "Reply Comments" to be served upon the following by prepaid U.S. mail:

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